

Response Under 37 C.F.R. § 41.37
Amended Appellant's Brief

Application No. 10/561,106
Paper Dated April 22, 2009
In Reply to Final Rejection of Oct. 28, 2008
Attorney Docket No. 1469-053129

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application No. : 10/561,106 Confirmation No. 1988
Applicant : FRANZ KNAUSEDER
Filed : 12/16/2005
Title : PANELS COMPRISING INTERLOCKING
SNAP-IN PROFILES
Group Art Unit : 3633
Examiner : Adriana Figueroa
Customer No. : 28289

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

AMENDED APPEAL BRIEF

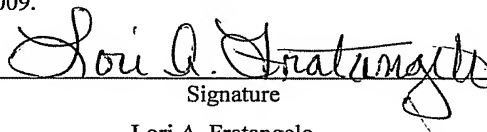
Sir:

This Appeal Brief is submitted in support of the Notice of Appeal mailed on January 21, 2009. The Notice of Appeal appeals the final rejection of claims 26-51.

The headings used hereinafter and the subject matter set forth under each heading are in accordance with 37 C.F.R. § 41.37.

I hereby certify that this correspondence is being electronically submitted to the United States Patent and Trademark Office on April 22, 2009.

04/22/2009
Date


Signature

Lori A. Fratangelo

Typed Name of Person Signing Certificate

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I

REAL PARTY IN INTEREST

Kaindl Flooring GmbH, a German business entity, is the Assignee of the entire right, title, and interest to the above-identified application and, as such, is the real party in interest in this Appeal.

II

RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellant, the Appellant's legal representative, or the Assignee of the above-identified application which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending Appeal.

III

STATUS OF CLAIMS

Claims 1 to 25 have been cancelled. Claims 26 to 51 stand finally rejected. An amendment to claim 26 after Final Rejection has been entered. An Amendment to claim 29 and canceling claims 30 and 36 was filed after the Notice of Appeal but before the filing of this Appeal Brief as provided in 37 C.F.R. § 41.33. The Amendment Filed After Notice of Appeal was not entered as not complying with § 41.33(b) or (c). (Applicant, however, was relying upon § 41.33(a) and § 1.116(b)(2) as well as § 41.33(b)(1).)

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IV

STATUS OF AMENDMENTS

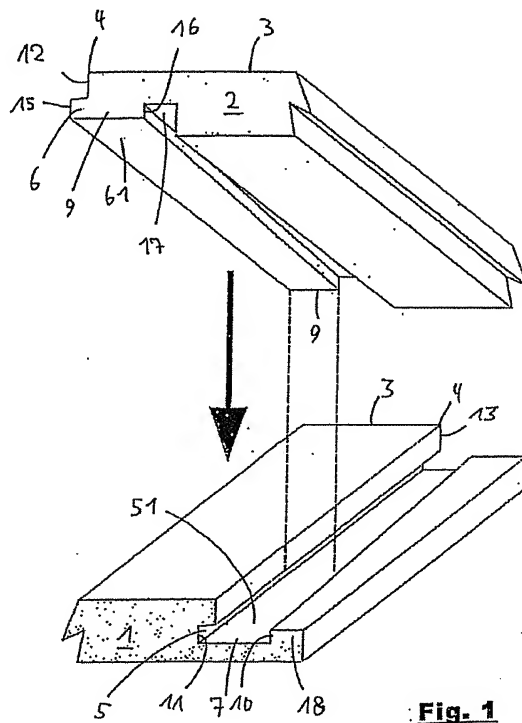
An amendment to claim 26 offered after Final Rejection has been entered. See Advisory Action dated December 23, 2008. An amendment to claim 29 was filed after the Notice of Appeal but before the filing of the Appeal Brief as provided in 37 C.F.R. § 41.33. At the same time, claims 30 and 36 were cancelled. The Amendment Filed After Notice of Appeal was not entered.

V

SUMMARY OF CLAIMED SUBJECT MATTER

All claims relate to interlocking panels or boards. Independent claim 26 and claims 27 and 28 dependent either directly or indirectly thereon are specifically directed to a structure comprising first, second, and third identical boards. Independent claim 29 and claims 31 to 35 and 37 to 45 and 51 dependent either directly or indirectly thereon are directed to boards having an interlocking configuration. Independent claim 46 and claims 47 and 48 dependent thereon are directed to a method of connecting first, second, and third boards with laterally mounted locking elements. Claim 49 and claim 50 dependent thereon are directed to a method of connecting first and second boards with laterally mounted locking elements.

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Referring to Fig. 1, the two boards referred to in all claims are shown in perspective with dashed lines indicating the manner in which the upper board can be vertically lowered into the lower board prior to being slide laterally into locking relationship as indicted by Figs. 2a, 2b, and 2c.

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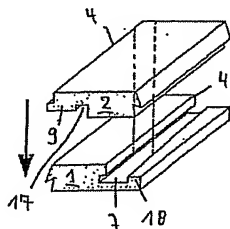


Fig. 2 a

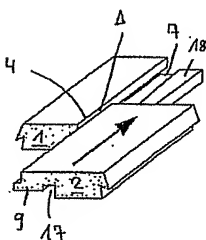


Fig. 2 b

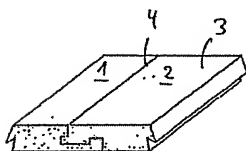


Fig. 2 c

The identical boards 1, 2 have planar surfaces 3. The boards are configured to be brought together to a positive fit along a common joint 4 in the direction perpendicular to the planar surfaces 3 and perpendicular to the common joint 4. The boards have laterally mounted locking elements 9 and 18 that are wedge-shaped and decrease in width entirely along the joint in a linear manner or increase in width entirely along the joint in a linear manner. The locking elements 9, 18 and the corresponding grooves 5, 7, and 17 are configured in such a manner that there is an initial position into which the boards can be brought by exclusively lowering in the vertical direction (See Fig. 2b). The boards are further configured in such a manner that there is a final position in which the boards are

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interlocked by positive fit (See Fig. 2c). The boards may be brought to the final position by displacement along the common joint 4 (See arrow in Fig. 2b).

A concise explanation of the subject matter of claims 26 to 51 with reference to the drawings and specification is set forth in the following table:

<p>Claim 26. A structure comprising of at least first, second and third identical boards having planar surfaces and laterally mounted locking elements along a common joint, said locking elements being wedge-shaped and having surfaces relative to the common joint that decrease entirely along the joint in a linear manner or increase entirely along the joint in a linear manner, wherein the locking elements are made in such a way that, simultaneously, by displacing the first board relative to the second board along a first common joint,</p>	<p>See Fig. 3: Boards 1' (one prime) and 2 (first and second boards) are already laid. Board 1 (third board) is being slid into place. See Specification page 19, first two paragraphs.</p> <p>“ A <u>perpendicular locking element 9</u> leads downwards away from the surface 3 of the board, which perpendicular locking element 9 can get into the perpendicular groove 7 of the first board...” (Specification page 17, lines 10-12).</p> <p>“A second perpendicular groove 17 extends perpendicularly upwards from the <u>perpendicular locking element 9</u> and is able to receive the <u>second locking element 18</u> of the lower board.” (Specification, page 18, lines 14-16).</p>
<p>the first board can be connected with the second board in a positive fit along the first common connecting joint, both in a perpendicular direction relative to the planar surface of the board, as well as in a parallel direction relative to the planar surface of the board, and, at the same time, in a</p>	<p>See Figs. 1, 2a, 2b, 2c: See specification page 15, last paragraph, through page 19, second paragraph.</p>

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perpendicular direction relative to the first common joint, and	
the first board can be connected with the third board in a positive fit along a second common connecting joint, at least in a perpendicular direction relative to the surface of the board.	See Fig. 3: Boards 1' (one prime) and 2 (first and second boards) are already laid. Board 1 (third board) is being slid into place. See specification page 19, first two paragraphs.
Claim 27. The structure according to claim 26, wherein all or some of the locking elements are made in such a way that the displacement can take place exclusively in one plane that is parallel relative to the surface of the boards.	Same as above.
Claim 28. The structure according to claim 27, wherein the first common connecting joint runs in a perpendicular direction relative to the second common connecting joint.	Same as above
Claim 29. Boards having laterally mounted locking elements with which two boards can be connected with each other laterally in an adhesive-free manner by positive fit, wherein the locking elements are made in such a manner, that there is an initial position into which the boards can exclusively be brought by lowering in a vertical direction, wherein a common joint is formed between the boards	See Figs. 1, 2a, 2b, 2c: See specification page 15, last paragraph, through page 19, second paragraph. "A <u>perpendicular locking element 9</u> leads downwards away from the surface 3 of the board, which perpendicular locking element 9 can get into the perpendicular groove 7 of the first board..." (Specification page 17, lines 10-12).

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in which a play occurs, and there is a final position in which the boards are interlocked by positive fit in a vertical direction and in which no play occurs at the common joint and wherein the panels may be connected with each other in an adhesive-free manner.	"A second perpendicular groove 17 extends perpendicularly upwards from the <u>perpendicular locking element 9</u> and is able to receive the <u>second locking element 18</u> of the lower board." (Specification, page 18, lines 14-16).
Claim 30. Boards according to claim 29, wherein the boards may be brought from the initial position into the final position by displacement along the common joint.	See above.
Claim 31. Boards according to claim 29, wherein the locking elements are such that the boards can be brought into the initial position when, along the common connecting joint, they are arranged offset relative to one another by more than 50% and less than 100%.	See original claim 6.
Claim 32. Boards according to claim 31, wherein there is an intermediate position in which the boards, at least in a vertical direction, are interlocked by positive fit and in which a play occurs at the common joint of the two boards.	See Figs. 1, 2a, 2b, 2c: See specification page 15, last paragraph, through page 19, second paragraph.

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Claim 33. Boards according to claim 32, wherein a board, as a locking element, has a perpendicular groove that is inserted in a perpendicular direction relative to the planar surface, and the other board has at least a corresponding protruding perpendicular locking element which arrives in the perpendicular groove when the boards are in the initial position, wherein the perpendicular groove and/or a lateral boundary of the perpendicular groove, at least in part, have a course that does not run parallel relative to the common joint, and/or the perpendicular locking element and/or a lateral boundary of the perpendicular locking element at least in part have such a course that does not run parallel relative to the common joint.	See groove 5 and tongue 6 in Fig. 1.
Claim 34. Boards according to claim 33, wherein, in the final position, a lateral boundary of the perpendicular groove adjoins a lateral boundary of the perpendicular locking element intimately.	See Fig. 2c. The end of tongue 6 abuts the end of groove 5.
Claim 35. Boards according to claim 34, wherein at least one lateral boundary of the perpendicular groove and/or a lateral boundary of the perpendicular locking element is formed wedge-shaped, has such a	Same as above. Original claim 10 for "decreases or increases along the joint in a linear manner."

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course relative to the common joint that the distance to the common joint decreases or increases along the joint in a linear manner.	
Claim 36. Boards according to claim 35, wherein at least one lateral wall of a groove that is provided as a locking element runs in an arched, wave-like, serpentine or sawtooth-like manner.	No longer argued.
Claim 37. Boards according to claim 35, wherein there is at least one contact area between two locking elements which area runs in a perpendicular direction relative to the surface.	Locking elements 9 and 18 abut at surfaces 10 and 16.
Claim 38. Boards according to claim 35, wherein there is at least one contact area between two locking elements formed by undercuts.	Fig. 5: See specification page 5, lines 6 to 10.
Claim 39. Boards according to claim 35, wherein one board laterally has, as a locking element, at least one groove and another board laterally has at least one tongue.	See Figs. 1, 2a, 2b, 2c: See specification page 15, last paragraph, through page 19, second paragraph.
Claim 40. Boards according to claim 35, wherein the bottom surface of a lateral tongue forms a continuous flat surface with the bottom of a vertical locking element.	See specification page 9, last paragraph.

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Claim 41. Boards according to claim 35, wherein a bottom groove-cheek of a lateral groove forms a flat surface with the bottom of the perpendicular groove.	See specification page 17, last paragraph.
Claim 42. Boards, according to claim 35, that can be connected by means of a paste or, in particular, adhesive sealing compound and/or an adhesive between two interlocked boards.	See specification page 13, last two paragraphs, and page 14, first full paragraph.
Claim 43. Boards according to claim 35, having a moisture repellant paste or adhesive mass between two boards which adjoins the surface of the boards.	See specification page 13, last two paragraphs, and page 14, first full paragraph.
Claim 44. Boards according to claim 35, wherein the boards are laminate panels.	See specification page 1, paragraph 3.
Claim 45. Boards according to claim 35, which are part of a floor covering.	See specification page 1, paragraph 2.
Claim 46. A method for connecting at least first, second and third boards having planar surfaces with laterally mounted locking elements, in particular of boards comprising the steps of:	See Fig. 3: Boards 1' (one prime) and 2 (first and second boards) are already laid. Board 1 (third board) is being slid into place. See specification page 19, first two paragraphs.
displacing the first board relative to the second board along a first common connecting joint, wherein simultaneously	See above.

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the first board being connected with the second board in a positive fit along the first common connecting joint, both in a perpendicular direction relative to the planar surface of the board, and in a parallel direction relative to the surface of the board, and, at the same time, in a perpendicular direction relative to the first common connecting joint, and	See above.
the first board being connected with the third board in a positive fit along a second common connecting joint, at least in a perpendicular direction relative to the planar surface of the board.	See above.
Claim 47. The method according to claim 46, wherein the displacement occurs exclusively in one plane parallel relative to the surface of the board.	Same as above.
Claim 48. The method according to claim 47, wherein the first connecting joint runs in a perpendicular direction relative to the second common connecting joint.	Same as above.
Claim 49. A method for connecting at least first and second boards with laterally mounted locking elements, wherein two of the boards being connected laterally by positive fit in an adhesive-free manner,	See Figs. 1, 2a, 2b, 2c: See specification page 15, last paragraph, through page 19, second paragraph.

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comprising the following steps:	
bringing the boards into an initial position, in particular, exclusively by lowering in a vertical direction, wherein a common joint is formed between the boards in which a play occurs, and	
bringing the boards into a final position, in which the boards are interlocked in a vertical direction by positive fit, and in which no play occurs at the common joint and the panels are connected in an adhesive-free manner.	
Claim 50. The method according to claim 49, wherein the boards are brought from the initial position into the final position by displacement along the common connecting joint.	Same as above.
Claim 51. Boards according to claim 30, wherein the locking elements are such that the boards can be brought into the initial position when, along the common connecting joint, they are arranged offset relative to one another by more than 66% and less than 80%.	Original claim 6.

VI

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The concise statement of each ground of rejection presented for review follows:

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The rejection of apparatus claims 26 to 28 and 31 to 34 and method claims 45 to 51 as being obvious in view of a single reference; namely, Konzelmann et al. WO 2002/103135 A1, specifically, the single reference makes obvious the limitations set forth in claims 26 and 31. (Applicant is not longer pursuing claims 29 and 30.)

The rejection of apparatus claims 35 and 37 to 45 as being obvious in view of Konzelmann et al. WO/2002/103135 A1 in view of McBurney U.S. Patent No. 2,016,382, specifically, that the references make obvious the limitations in claim 35. (Applicant is no longer pursuing claim 36.)

More specifically, claims 26-34 and 46-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Konzelmann et al. German patent application (WO 2002/103135 A1). The Examiner has relied upon Konzelmann et al. U.S. Patent Application Publication No. 2004/0168392 entitled "Panels Comprising an Interlocking Snap-In Profile" as a translation of the German Patent application.

The Examiner states:

Regarding claim 26, German Patent [Konzelmann] discloses a structure comprising of at least first (1), second (2) and third identical boards, having planar surfaces (3) (Figure 1), and laterally mounted **locking elements (5,6)**, along a common joint (4), said **locking elements (5,6)** being wedge shaped and having surfaces relative to the common joint that decrease or increase entirely along the joint in a linear manner (X), (annotated Figure 1, Detail A indicates the decrease or increase), wherein the locking elements are made in such a way that simultaneously, by displacing the first board (1) relative to the second board (2) along a first common joint (4), the first board can be connected with the second board in a positive fit along the first common connecting joint, both in a perpendicular direction relative to the planar surface of the board (3), as well as in a parallel direction relative to the planar surface (3) of the board, and, at the same time, in a perpendicular direction relative to the first common joint (4) ,

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and the first board (1) can be connected with a third board in a positive fit along a second common connecting joint (j) at least in a perpendicular direction relative to the surface of the board, (Figure 1). [Emphasis added.]

More specifically, claims 35 and 37-45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Konzelmann et al. in view of McBurney U.S. Patent No. 2,016,382 entitled "Furnace Tank Construction." (Claim 36 is not being pursued.)

The Examiner states:

Regarding claim 35, German Patent [Konzelmann et al.] discloses boards (1, 2) as discussed above, but does not disclose at least one lateral boundary of the perpendicular groove and a lateral boundary of the perpendicular locking element is formed wedge-shaped, in particular as such a course relative to the common joint that the distance to the common joint decreases or increases along the joint in a linear manner. However, McBurney teaches at least one lateral boundary of the perpendicular groove (12) and a lateral boundary of the perpendicular locking element (13) is formed wedge-shaped, in particular has such a course relative to the common joint (j) that the distance to the common joint decreases or increases along the joint in a linear, [manner?] (annotated Figure 5).

Therefore, it would have been obvious to substitute the locking elements (r, s) of German Patent with the locking elements of McBurney since this would have yielded predictable results, which is an interlocking action to one of ordinary skill in the art at the time of the invention such as interlocking floor boards.

VII

ARGUMENT

Each issue presented for review is addressed hereinafter under the appropriate heading.

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35 U.S.C. § 103

Claims 26 to 28

The Examiner has misread claim 26 asserting the lateral tongue 6 and lateral groove 7 comprise the locking elements referred to in the claims. The locking elements referred to in claim 26 are clearly the locking elements described in the specification with reference to elements 9 and 18.

“A perpendicular locking element 9 leads downwards away from the surface 3 of the board, which perpendicular locking element 9 can get into the perpendicular groove 7 of the first board...” (Specification: page 17, lines 10- 12.)

“A second perpendicular groove 17 extends perpendicularly upwards from the perpendicular locking element 9 and is able to receive the second locking element 18 of the lower board.” (Specification: page 18, lines 14-16.)

“Claims must be read in view of the specification of which they are part.”
Markman v. Westview Instruments, Inc., 52 F.3d 967, 979 (Fed. Cir 1995), *aff'd*, 517 U.S. 370 (1996).

When claim 26 is read in view of the specification, it is clear that the “locking elements” are the elements 9 and 18 which extend perpendicular to the face of the boards and not generally parallel to the face of the boards.

Moreover, the language of claim 26 clearly requires the term “locking elements” to have a wedge shape that increases or decreases “along the joint;” that is, “in the direction of the joint” and not in a direction perpendicular to the joint. This is essential in order that “by displacing the first board relative to the second board along a first common

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joint," i.e., in the direction of the joint, that the first board and second board will acquire a "positive fit."

The extent to which the tongue 6 of Konzelmann et al. tapers, it tapers in a direction generally perpendicular to the joint 4 and not "along the joint." The Examiner has misconstrued Appellant's claim 26 and the claims dependent thereon in an effort to shoehorn Konzelmann et al. into these claims.

With regard to claim 26 and the claims dependent thereon, the Examiner has provided no rationale for how the Konzelmann et al. reference should be modified to meet the limitations of these claims or provided any reason why the claims should be so modified. Even under the § 103 standards of *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), just as the Examiner must identify a reason that would have prompted a person skilled in the art to combine elements in the way the claimed new invention does, the Examiner must identify a reason for modifying a single reference in the way the claimed new invention does. Here, the Examiner has neither indicated the way in which one skilled in the art would modify Konzelmann et al. to provide Appellant's invention nor has she given any reason to do so. In the *KSR Opinion*, it was held that: "[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Nothing in the Konzelmann et al. reference suggests that the structure disclosed is in any way inadequate or needs to be modified. One reading the Konzelmann et al. reference would simply follow the teachings of Konzelmann et al. which would neither anticipate nor render obvious the structure set forth in claim 26 and the claims dependent thereon.

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The Konzelmann et al. reference corresponds to German Printed Application No. DE 201 09 840 U1 which was distinguished in the Appellant's specification at page 2, lines 1 to 17. There it is explained that a connection is proposed by the reference that is free from play brought about by a displacing movement from an initial interlocked position along the common connecting joint. However, the locking together of adjacent boards in the direction perpendicular to the surfaces of the boards is achieved by first establishing an initial interlocked position by rotating the tongue of one board into the groove of an adjacent board or by depressing the connecting portions of one board made of an elastic material to insert the tongue of one board into the adjacent board. The rotational connection requires a particular complex design of the tongues and grooves to permit the connection in this manner. The use of elastic material results in a lesser strength of the connection. Moreover, the play free connection is achieved by vertical groove walls that have an arched, wave-like, serpentine, or saw-tooth configuration that is difficult to manufacture.

Indeed, in every embodiment disclosed and claimed in the Konzelmann et al. reference, there is an initial position in which the boards are interlocked by a positive fit in at least one direction. This initial position cannot be obtained by exclusively lowering one board to another. Clearly, Konzelmann et al. envisioned an advantage to having an initial interlocked position. Nothing in Konzelmann et al. would suggest the contrary.

It is improper for an Examiner to attempt to rebuild a reference in order for it to operate in a manner never intended or contemplated by the reference. *Ex parte Garrett*, 132 U.S.P.Q. 514 (1961).

With reference to Fig. 1 of the corresponding published Konzelmann et al. U.S. application, the wall 10 has a zig-zag or serpentine configuration with respect to

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connecting joint 4. This has two major consequences. The board 2 can only be inserted into board 1 by first rotating board 2 so that the lateral tongue 6 enters the lateral groove 5. Also, the zig-zag surfaces of the two boards must be substantially aligned (zig in zag) prior to rotation. The range of displacement is severely limited, complicating the assembly of boards.

Claim 26 and the claims dependent thereon have added limitations to provide that the locking elements (9, 18) have surfaces relative to the common joint that increase or decrease along the joint in a linear (thus, not zig-zag or serpentine) manner. This language clearly distinguishes the subject matter disclosed in Konzelmann et al.

Claims 29-34 and 51

Claims 29 and 30 are no longer being argued. Claim 31 provides that the locking elements of the boards can be brought into an initial position offset by more than 50 percent which is not possible with the boards disclosed in Konzelmann et al. The fact that the zigs must be substantially aligned with the zags requires that there can be no significant initial offset between boards to be brought into contact along the entire length of the common connecting joint. To modify the Konzelmann et al. patent to permit a 50 percent offset would be to eliminate the zigs and zags which would be contrary to the basic teachings of Konzelmann et al. The arguments made relative to claim 29 apply to claims 30 to 34 and 51.

Claims 35, and 37-45

Claim 35 contains language that the Examiner apparently acknowledges distinguishes Konzelmann et al. and, therefore, has found it necessary to propose a combination of references citing McBurney relating to furnace tank construction.

The McBurney patent relates to refractory blocks that line the tank for holding molten glass. The McBurney patent discloses with reference to the figures a keyed

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connection between the interior faces of two blocks. The keyed connection does not prevent the separation of the block 10 facing the glass tank from the back-up block 11. The converging arrangement of the marginal faces does not cause the block to shift either in a direction parallel to the faces of the blocks or perpendicular to the faces of the blocks. When the marginal faces of the key meet the marginal faces of the keyway, the marginal faces merely seat together. This action does not draw the blocks together. It does not even enable the shift of block 10 relative to block 11 parallel to the faces of the blocks. Nothing in the teachings of the McBurney patent would suggest modification of the tongue-and-groove connection along the lateral edges of floor boards disclosed in Konzelmann et al. in a way to permit the lateral edges to be interlocked with a positive fit. Indeed, any modification of the Konzelmann et al. reference to incorporate the key and keyway structure of McBurney would eliminate the ability of the two boards to be drawn together.

Still further, modifying Konzelmann et al. in view of McBurney would eliminate a feature Konzelmann et al. considers essential; namely, the initial interlocked position.

Not only is the McBurney patent directed to an entirely non-analogous art but it is not directed to solving the same type of problem. There is no teaching of connecting the lateral edges of the blocks facing into the glass tank to adjacent blocks facing into the glass tank. No interconnection between adjacent blocks facing the molten glass will prevent the separation of those blocks perpendicular to the joint therebetween, nor are the adjacent blocks connected to prevent relative movement perpendicular to the face of the blocks.

For at least these reasons, it is respectfully urged that it would not have been obvious or useful to substitute the key and keyway of the McBurney patent for the locking

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elements of the Konzelmann et al. reference and even if attempted would not have provided the boards as described by the Appellant's claims nor would it provide the desired results of drawing the boards together.

In the *KSR Opinion*, it was held that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Nothing in the McBurney reference would provide a rational underpinning for modification of the structure disclosed the Konzelmann et al. reference in any way to eliminate an essential feature, i.e., the initial interlocked position and the zig-zag tongue.

Claims 46-48

With regard to claim 46, Konzelmann et al. does not disclose a method for bringing boards together such that relative displacement along the common connecting joint will engage the boards in a common fit both perpendicular to the connecting joint and perpendicular to the planar surface of the boards. There is no apparent way with the boards disclosed in Konzelmann et al. that the tongues can enter the grooves while shifting the boards along the common joint from an initial position in which the tongue is not already in the groove. No dissatisfaction is suggested for the boards described in Konzelmann et al., which are represented therein as an improvement over five prior art patents. There would be no apparent reason for one of ordinary skill in the art to modify the configuration of the boards disclosed in Konzelmann et al. On this record, it is clear that the advantages of the Appellant's configuration were clearly not apparent to those of ordinary skill in the art and could serve as no motivation or reason to modify the structure of Konzelmann et al.

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Claims 49-50

The arguments set forth for claims 46-48 apply equally to claims 49-50.

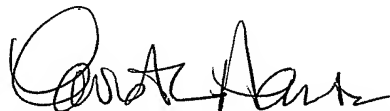
CONCLUSION

For the reasons set forth above, Appellant urges claims 26-29, 31-35, and 37-51 are patentable over the cited art and are in condition for allowance. Reversal of all of the Examiner's rejections and allowance of these claims are respectfully requested.

The Commissioner of Patents and Trademarks is hereby authorized to charge the fee of \$540.00 by credit card, which information accompanies this Appeal Brief. The Commissioner of Patents and Trademarks is hereby authorized to charge any additional fees which may be required to Deposit Account Number 23-0650. Please refund any overpayments to Deposit Account Number 23-0650.

Respectfully submitted,

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Claims Appendix

Claims 1-25 (Cancelled.)

Claim 26. A structure comprising of at least first, second and third identical boards having planar surfaces and laterally mounted locking elements along a common joint, said locking elements being wedge-shaped and having surfaces relative to the common joint that decrease entirely along the joint in a linear manner or increase entirely along the joint in a linear manner, wherein the locking elements are made in such a way that, simultaneously, by displacing the first board relative to the second board along a first common joint,

the first board can be connected with the second board in a positive fit along the first common connecting joint, both in a perpendicular direction relative to the planar surface of the board, as well as in a parallel direction relative to the planar surface of the board, and, at the same time, in a perpendicular direction relative to the first common joint, and

the first board can be connected with the third board in a positive fit along a second common connecting joint, at least in a perpendicular direction relative to the surface of the board.

Claim 27. The structure according to claim 26, wherein all or some of the locking elements are made in such a way that the displacement can take place exclusively in one plane that is parallel relative to the surface of the boards.

Claim 28. The structure according to claim 27, wherein the first common connecting joint runs in a perpendicular direction relative to the second common connecting joint.

Claim 29. Boards having laterally mounted locking elements with which two boards can be connected with each other laterally in an adhesive-free manner by positive fit, wherein the locking elements are made in such a manner, that there is an initial position into which the boards can exclusively be brought by lowering in a vertical direction, wherein a common joint is formed between the boards in which a play occurs, and there is a final

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position in which the boards are interlocked by positive fit in a vertical direction and in which no play occurs at the common joint and wherein the panels may be connected with each other in an adhesive-free manner.

Claim 30. Boards according to claim 29, wherein the boards may be brought from the initial position into the final position by displacement along the common joint.

Claim 31. Boards according to claim 30, wherein the locking elements are such that the boards can be brought into the initial position when, along the common connecting joint, they are arranged offset relative to one another by more than 50% and less than 100%.

Claim 32. Boards according to claim 31, wherein there is an intermediate position in which the boards, at least in a vertical direction, are interlocked by positive fit and in which a play occurs at the common joint of the two boards.

Claim 33. Boards according to claim 32, wherein a board, as a locking element, has a perpendicular groove that is inserted in a perpendicular direction relative to the planar surface, and the other board has at least a corresponding protruding perpendicular locking element which arrives in the perpendicular groove when the boards are in the initial position, wherein the perpendicular groove and/or a lateral boundary of the perpendicular groove, at least in part, have a course that does not run parallel relative to the common joint, and/or the perpendicular locking element and/or a lateral boundary of the perpendicular locking element at least in part have such a course that does not run parallel relative to the common joint.

Claim 34. Boards according to claim 33, wherein, in the final position, a lateral boundary of the perpendicular groove adjoins a lateral boundary of the perpendicular locking element intimately.

Claim 35. Boards according to claim 34, wherein at least one lateral boundary of the perpendicular groove and/or a lateral boundary of the perpendicular locking element is

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formed wedge-shaped, has such a course relative to the common joint that the distance to the common joint decreases or increases along the joint in a linear manner.

Claim 36. Boards according to claim 35, wherein at least one lateral wall of a groove that is provided as a locking element runs in an arched, wave-like, serpentine or sawtooth-like manner.

Claim 37. Boards according to claim 35, wherein there is at least one contact area between two locking elements which area runs in a perpendicular direction relative to the surface.

Claim 38. Boards according to claim 35, wherein there is at least one contact area between two locking elements formed by undercuts.

Claim 39. Boards according to claim 35, wherein one board laterally has, as a locking element, at least one groove and another board laterally has at least one tongue.

Claim 40. Boards according to claim 35, wherein the bottom surface of a lateral tongue forms a continuous flat surface with the bottom of a vertical locking element.

Claim 41. Boards according to claim 35, wherein a bottom groove-cheek of a lateral groove forms a flat surface with the bottom of the perpendicular groove.

Claim 42. Boards, according to claim 35, that can be connected by means of a paste or, in particular, adhesive sealing compound and/or an adhesive between two interlocked boards.

Claim 43. Boards according to claim 35, having a moisture repellant paste or adhesive mass between two boards which adjoins the surface of the boards.

Claim 44. Boards according to claim 35, wherein the boards are laminate panels.

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Claim 45. Boards according to claim 35, which are part of a floor covering.

Claim 46. A method for connecting at least first, second and third boards having planar surfaces with laterally mounted locking elements, in particular of boards comprising the steps of:

displacing the first board relative to the second board along a first common connecting joint, wherein simultaneously

the first board being connected with the second board in a positive fit along the first common connecting joint, both in a perpendicular direction relative to the planar surface of the board, and in a parallel direction relative to the surface of the board, and, at the same time, in a perpendicular direction relative to the first common connecting joint, and

the first board being connected with the third board in a positive fit along a second common connecting joint, at least in a perpendicular direction relative to the planar surface of the board.

Claim 47. The method according to claim 46, wherein the displacement occurs exclusively in one plane parallel relative to the surface of the board.

Claim 48. The method according to claim 47, wherein the first connecting joint runs in a perpendicular direction relative to the second common connecting joint.

Claim 49. A method for connecting at least first and second boards with laterally mounted locking elements, wherein two of the boards being connected laterally by positive fit in an adhesive-free manner, comprising the following steps:

bringing the boards into an initial position, in particular, exclusively by lowering in a vertical direction, wherein a common joint is formed between the boards in which a play occurs, and

bringing the boards into a final position, in which the boards are interlocked in a vertical direction by positive fit, and in which no play occurs at the common joint and the panels are connected in an adhesive-free manner.

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Claim 50. The method according to claim 49, wherein the boards are brought from the initial position into the final position by displacement along the common connecting joint.

Claim 51. Boards according to claim 30, wherein the locking elements are such that the boards can be brought into the initial position when, along the common connecting joint, they are arranged offset relative to one another by more than 66% and less than 80%.

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Evidence Appendix

None.

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Related Proceedings Appendix

None.